



STATE OF WISCONSIN Assembly Journal

Ninety-Sixth Regular Session

FRIDAY, April 23, 2004

The Chief Clerk makes the following entries under the above date:

EXECUTIVE COMMUNICATIONS

State of Wisconsin
Office of the Governor
Madison

April 22, 2004

To the Honorable Members of the Assembly:

The following bills, originating in the Assembly, have been approved, signed and deposited in the office of the Secretary of State:

<u>Bill Number</u>	<u>Act Number</u>	<u>Date Approved</u>
Assembly Bill 195	..... 288	..... April 20, 2004
Assembly Bill 209	..... 289	..... April 20, 2004
Assembly Bill 554	..... 290	..... April 20, 2004
Assembly Bill 628	..... 291	..... April 20, 2004
Assembly Bill 709	..... 292	..... April 20, 2004
Assembly Bill 730	..... 293	..... April 20, 2004
Assembly Bill 755	..... 294	..... April 20, 2004
Assembly Bill 925	..... 295	..... April 20, 2004
Assembly Bill 932	..... 296	..... April 20, 2004
Assembly Bill 306	..... 306	..... April 22, 2004
Assembly Bill 728	..... 307	..... April 22, 2004
Assembly Bill 732	..... 308	..... April 22, 2004
AB 926 (in part)	..... 310	..... April 22, 2004
Assembly Bill 396	..... 316	..... April 22, 2004

Respectfully submitted,
JIM DOYLE
Governor

GOVERNOR'S VETO MESSAGE

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 67**. The bill expands the circumstances under which a health care provider may refuse to provide certain medical procedures based on moral or religious convictions. Current law already allows providers to refuse to perform sterilizations and abortions. The bill would also allow such an objection as a basis for not

participating in procedures involving human embryos and fetal tissue or organs. Health care providers could also refuse to honor a patient's request to a physician to abide by their living will.

This bill improperly places a higher priority on a health care provider's own ideological beliefs than on a patient's medical well being and right to make their own health care decisions. Not only could a health care provider refuse treatment, there are no requirements that the health care professionals advise patients of their treatment options, provide a referral to the patient, transfer certain patients, or render care if the patients' health or life is threatened. While I respect the sincerity of health care providers' personal beliefs, they must not prevent access by all Wisconsin citizens to critical medical care.

This bill also poses significant problems for patients who have limited access to a choice of doctors. The personal ideological beliefs of scarce health care providers in rural or other under-served parts of the state should not dictate the legitimate medical options available to those areas' citizens. A clinic's doors are not truly open to the community if the services available within the clinic are limited to anything less than the full range of needed treatments.

This bill should be called the "Unconscionable Clause" because it would be unconscionable to deny our citizens the full range of needed medical treatment in order to satisfy the ideological views of some health care professionals.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 131**. This bill reduces the initial effective period of an emergency rule from 150 to 90 days. While the bill also lengthens the maximum duration of any subsequent individual extensions of an emergency rule from 60 to 90 days and increases the maximum cumulative time period for all extensions, I believe the reduction in the initial effective period to be an impediment to the efficient, effective, and necessary use of emergency rules. The current time period for emergency rules provides consistency and reliability to individuals and businesses that work with the state.

Furthermore, I object to this intrusion into the ability of the Governor to manage the agencies within his or her cabinet.

Emergency rules are a long-standing tool and are necessary to ensure that state agencies correctly implement new and existing programs. The current system leaves rules in effect for a minimum of 150 days and allows the Joint Committee for Review of Administrative Rules to consider existing and proposed administrative rules. This process provides for the necessary legislative oversight, ensures the appropriate checks and balances, and permits new programs to begin in a timely fashion while permanent rules are developed.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 411**. The bill exempts from nonmetallic mining reclamation requirements the removal of soils for the purpose of creating a pond or wetland that has an area of three acres or less.

This bill creates an unnecessary statutory exemption and creates a competitive advantage for operators who qualify for the exemption over those who do not. Non-exempt operators would incur the costs of obtaining permits and approvals, and developing and implementing reclamation plans as required under current law. This advantage is not in line with the principle of creating a "level playing field" which was the foundation for developing the existing nonmetallic mining reclamation rules.

Additionally, local reclamation programs and the Department of Natural Resources staff have the ability within the current regulatory framework to address problems arising under nonmetallic mining reclamation requirements from pond and wetland excavations.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 423**. This bill limits the liability of a dog owner for double damages to those circumstances where the dog's bite breaks the skin and causes permanent scarring or disfigurement and where the owner was notified or knew that the dog had previously caused such an injury without provocation. The bill eliminates liability for double damages where a dog causes injury to a domestic animal or to property.

This bill also raises the maximum forfeiture that can be imposed on a dog owner when the dog injures persons, property, domestic animals and certain game animals from \$500 to \$2,500. The bill raises the maximum forfeiture to \$5,000 if the owner was notified or knew that the dog previously caused an injury. The bill also allows any person

to seek a court order to have certain public officials put down a dangerous dog.

I recognize that increasing maximum forfeitures for dog owners may increase the financial incentive for a dog owner to provide proper socialization and control of a dog. I also recognize that allowing any person to seek a court order to have an officer put a dog down may relieve some of the burden on state and municipal officials.

However, the severe restriction of the circumstances in which a dog owner is liable for double damages outweighs the potential benefits of these two provisions. The bill eliminates the liability for double damages except in those cases where the dog's bite actually breaks the skin of an individual and causes permanent scarring or disfigurement. Serious injury can result from a dog attack that does not involve biting, and the harm caused by aggressive and poorly controlled dogs is not limited to scarring but includes bruising, bone breakage, heart attack and mental trauma, as well as damage to other animals and to property. To reduce liability for these types of injuries would remove the most powerful financial consequence for irresponsible dog owners.

Dog owners must properly socialize and control their dogs. When a dog owner allows or encourages aggressive behavior in a dog, the owner should face significant consequences, including liability for double damages.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 431**. The bill allows a municipality to opt out of the county library tax if, subject to county board approval, a levy is collected for library purposes that is equal to or greater than the county tax on a per capita basis. Current law allows municipalities to opt out only if their levy is equal to or greater than the county tax.

I feel strongly that library funding arrangements are working statewide and object to any bill that endangers the quality of our libraries. This bill encourages a fragmentation of library services that will reduce the tax base for and revenues of existing libraries.

Under the bill, a new library may be formed to allow a municipality to gain a lower tax rate, overall reducing the tax base supporting the county's library payments. County payments to existing libraries will also fall because the county's payments will be determined on a reduced portion of the county. The existing library funding system is designed to equitably support library services and access for all county residents. Fragmentation runs counter to this goal as well as counter to our efforts to improve coordination and consolidation in local government services.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 516**. This bill exempts a person from the requirement to obtain a construction permit for any equipment, including an engine or generator but excluding certain crushers or grinding mills, at a nonmetallic mineral processing facility if the person has obtained or applied for an air pollution operation permit for the facility.

The intent of this legislation is to streamline the permitting process relative to certain construction permits issued by the Department of Natural Resources. I am supportive of this goal. Earlier this year, I signed into law [2003 Wisconsin Act 118](#), calling for environmental regulatory reform. This legislation made bold changes in the area of permit streamlining and will ensure that our regulatory process is faster, simpler, and more efficient, while maintaining our high environmental standards.

This bill would implement a piecemeal approach to permit streamlining, rather than a more comprehensive effort. Furthermore, by completely exempting certain types of equipment, this bill would undermine the department's efforts to protect the citizens of Wisconsin from hazardous air pollution. Emissions from diesel engines, including those that would be exempt from regulation under this bill, contain hazardous pollutants that are suspected of causing cancer in humans.

The department is undertaking efforts to streamline the construction permit process utilizing new authority provided by Act 118 that I signed earlier this year. This environmental regulatory reform Act established a new Registration Permit that allows the regulated entity to disclose sources of air emissions to the Department of Natural Resources that have a low potential for emissions. This information will ensure that equipment and its emissions are considered while reviewing the permit application for the facility in question. It is my expectation that certain crushers or grinding mills at a nonmetallic mineral processing facility would be eligible for this new Registration Permit. The treatment of particular equipment or industries is best addressed through a comprehensive and deliberate process in order to ensure that both the economy and the environment are protected.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 551**. The bill allows towns to opt out of county development plans. The bill provides that no county development plan or plan amendment would be applicable in a town unless the town board approves it. The bill also requires a town board to vote to approve or disapprove the county board's action no later than 90 days

after the county clerk sends notice of the action. If no vote is taken within this period, the county development plan applies to the town.

I recognize that some town governments are concerned about a county exercising a greater degree of control over towns under the Smart Growth law. The Smart Growth law does not increase the power of counties over towns. Communities can only plan for that program or action for which they are responsible. If a town chooses not to develop a comprehensive plan under the Smart Growth law, the county is not given any additional power over a town. The county is left with the same powers it had without the Smart Growth law.

Local control is an important aspect of Wisconsin government and is reflected in the Smart Growth law itself. The Smart Growth law does not alter the relationship between counties and towns. This bill, however, does alter that relationship and undermines the ability of counties to make appropriate plans for providing required county services.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 735**. This bill requires that the Public Service Commission's biennial strategic energy assessment look forward seven years, rather than three, as required under current law. The strategic energy assessment evaluates the adequacy and reliability of the state's energy supply, including large electric generation facilities and high-voltage transmission lines for which construction is planned.

AB 735 passed the Legislature during an extraordinary session and was not subject to the full legislative process. This bill was not reviewed by the Assembly or Senate Committees on Energy and Utilities and did not receive adequate public scrutiny before passage.

Additionally, the bill limits the Public Service Commission's flexibility to determine the most appropriate time frame for the strategic energy assessment. The Public Service Commission may utilize the administrative rule-making process to gather public input and determine whether a strategic energy assessment process that includes a longer time frame supports the state's efforts to develop sound energy policies.

Respectfully submitted,
JIM DOYLE
Governor

April 21, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 858**. The bill extends certain current law limitations on the ability of municipalities and

counties to regulate the height and size of buildings and premises to include structures and fixtures. The bill prohibits the use of amortization ordinances, which allow the continued lawful use of an existing building, premises, structure or fixture for only a specified period of time, after which the now nonconforming and unlawful use must be discontinued without any required payment of just compensation.

This bill interferes with the ability of local governments to implement land use policies. It would impair the ability of a local unit of government to effect the removal of land uses that are no longer consistent with a community's interests, growth and future. It hampers the ability of a local government to be responsive to its citizens and the changing needs of the community by narrowing the power of zoning authority. The delicate balance between preserving a current land use and converting to a new use is best weighed by those closest to the issue and its possible benefits or drawbacks.

Respectfully submitted,
JIM DOYLE
 Governor

April 22, 2004

To the Honorable Members of the Assembly:

I am vetoing **Assembly Bill 830**. The bill earmarks \$378,300 GPR and 5.0 FTE GPR positions for the University of Wisconsin-Platteville. These additional resources are intended for the University of Wisconsin-Platteville to provide engineering instruction at the University of Wisconsin-Rock County 2-year campus.

I am vetoing AB 830 because I object to having the Legislature earmark funding outside of the budget process for campus-specific programs in the University of Wisconsin System. Circumventing the university's normal budget process will harm our ability to consider the overall needs of the entire system. I believe this proposal has great merit and will urge the Board of Regents to include it in their next budget proposal.

Respectfully submitted,
JIM DOYLE
 Governor

April 22, 2004

To the Honorable Members of the Assembly:

I have approved **Assembly Bill 926** as **2003 Wisconsin Act 310** and have deposited it in the Office of the Secretary of State. I have exercised the partial veto in Section 7, as it relates to s. 281.34 (1)(b) and (4)(a)intro.

Assembly Bill 926 establishes a comprehensive system for the regulation of high capacity wells and groundwater quantity in the state. This bill will result in vital protections for our state's groundwater resources and reflects the hard work and dedication of the Legislature and individuals representing agriculture, the environment, municipalities and business. The thoroughness of this bill and the consensus that

affected interests have achieved should be models for future accomplishments in state government.

I have exercised the partial veto in Section 7, as it relates to s. 281.34 (1)(b), because I object to the potential confusion that could be created by including rate of withdrawal in the definition of high capacity well. The bill defines a "high capacity well" as a well that has a capacity and rate of withdrawal of more than 100,000 gallons per day. Unfortunately, the bill does not define "rate of withdrawal." Because pumping from many high capacity wells varies over time, the term "rate of withdrawal" could be interpreted to refer to the instantaneous rate or to the rate averaged over weeks, months or years. The partial veto is intended to clarify this definition and, as a result, "high capacity well" will mean a well with a capacity of more than 100,000 gallons per day.

I have exercised the partial veto in Section 7, as it relates to s. 281.34 (4)(a)intro., because I object to the potential unintended impact that this language could have on other Wisconsin Environmental Protection Act (WEPA) determinations made by the Department of Natural Resources that do not involve high capacity wells. The partial veto clarifies and limits this review to high capacity well applications only. Further clarifications of the use of the WEPA review process will be made as part of the administrative rule making authorized as part of the legislation.

Respectfully submitted,
JIM DOYLE
 Governor

COMMUNICATIONS

State of Wisconsin
 Office of the Secretary of State
 Madison

To Whom It May Concern:

Acts, Joint Resolutions and Resolutions deposited in this office have been numbered and published as follows:

<u>Bill Number</u>	<u>Act Number</u>	<u>Publication Date</u>
Assembly Bill 195	..... 288	May 4, 2004
Assembly Bill 209	..... 289	May 4, 2004
Assembly Bill 554	..... 290	May 4, 2004
Assembly Bill 628	..... 291	May 4, 2004
Assembly Bill 709	..... 292	May 4, 2004
Assembly Bill 730	..... 293	May 4, 2004
Assembly Bill 755	..... 294	May 4, 2004
Assembly Bill 925	..... 295	May 4, 2004
Assembly Bill 932	..... 296	May 4, 2004
Assembly Bill 306	..... 306	May 6, 2004
Assembly Bill 728	..... 307	May 6, 2004
Assembly Bill 732	..... 308	May 6, 2004
AB 926 (in part)	..... 310	May 6, 2004
Assembly Bill 396	..... 316	April 26, 2004

Sincerely,
DOUGLAS LA FOLLETTE
 Secretary of State